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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Carolyn Ramsey Catan
Serial No.: 09/734,808
Filed: December 12, 2000
For: REMOTE CONTROL ACCOUNT AUTHORIZATION
SYSTEM
Group No.: 1762
Examiner: Alain L. Bashore

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
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APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. § 41.41

The Appellant files this Reply Brief Under 37 C.F.R. § 41.41 in response to the Examiner's Answer, which was mailed on August 17, 2006.

Arguments in Response to the Examiner's Answer

The Appellant respectfully disagrees with the Examiner's characterization of the *Nakano* reference. The Examiner stated that "Nakano et al discloses a method of purchasing where an account authorization device includes a consumer electronics device in the home and a device for locally controlling access to an account." (Examiner's Answer, Page 3, Line 19 to Page 4, Line 1). However, the account authorization device of *Nakano* is not located in the home and does not locally control access to an account. Specifically, the "server/processor 1" of *Nakano* that contains the "imaginary account 2" is not located in the home but is located at the other end of the communication link at the offices of the service provider company. (*Nakano*, Column 3, Lines 3-4).

This may be clearly seen from Figure 3 of *Nakano* (and the text that describes Figure 3). The consumer electronics device shown in Figure 3 of *Nakano* comprises "set-top box 3" and "display device 4" and "remote controller 6." The "server/processor 1" and the "imaginary account 2" are accessed over the communication link that is designated "CABLE, etc." in Figure 3 of *Nakano*.

In the Appellant's invention the consumer account information (including bioauthentication information) is locally stored in a memory in "set-top-box 50" or in some other local storage device. (Specification, Page 7, Lines 11-19). The "server/processor 1" of *Nakano* is not a local device. The Appellant's invention compares locally received bioauthentication information to locally stored bioauthentication information to detect a match, and then accesses a locally stored sub-credit limit that corresponds to the received bioauthentication information to enable a purchase over the

communication link. (Specification, Claim 5). It is important to note that the set-top-box 50 of the Appellant's invention sends the account holder information over the communication link only if the bioauthentication match is detected and the sub-credit limit is not exceeded. (Specification, Claim 5).

In contrast, as shown in Figure 3 of *Nakano*, a user of the *Nakano* device must send a "Charge Request + Child's ID Data" over the communications link before a match is detected. As a result, the *Nakano* reference does not disclose, teach, or suggest the features of the Appellant's invention.

Even if it were proper to combine the teachings of the *Harada* reference with the *Nakano* reference (which the Appellant denies) the combination of the two references would not disclose, teach or suggest the features of the Appellant's invention. The *Harada-Nakano* combination would still require sending a communication over the communications link to the remotely located "server/processor 1" of *Nakano* before a test of the sub-credit limit could be made.

As a result, the cited portions of the *Nakano* reference and the *Harada* reference fail to disclose, teach, or suggest the elements of the Appellant's invention as claimed in Claim 5. Furthermore, the deficiencies of the *Harada-Nakano* combination are not remedied by the teachings of the *Dethloff* reference. The *Dethloff* reference teaches the use of a "voice print" stored on an integrated circuit chip in a plastic multi-user "smart card" ("M-card") as an identification code in place of a personal identification number (PIN). The *Dethloff* M-card does not comprise a "voice sensor" that creates a "voice print." The *Dethloff* M-card also does not comprise any

other type of bioauthentication sensor that senses bioauthentication information. Therefore, the *Dethloff* reference does not disclose, teach or suggest a consumer electronic device that comprises “a bioauthentication device which provides bioauthentication information.”

Even it were proper to combine the teachings of the *Dethloff* reference with the *Nakano-Harada* combination (which the Appellant denies) the combination of the three references would not disclose, teach or suggest the features of the Appellant’s invention. The *Harada-Nakano-Dethloff* combination would still require sending a communication over the communications link to the remotely located “server/processor 1” of *Nakano* before a test of the sub-credit limit could be made. The “card accepting machine” described in the *Dethloff* reference (*Dethloff*, Column 14, Line 3) is analogous to the “server/processor 1” of *Nakano*. The interface between the *Dethloff* M-card and the “card accepting machine” described in the *Dethloff* reference is analogous to the “communications link” of the Appellant’s invention.

Like the “server/processor 1” of *Nakano*, the card accepting machine described by *Dethloff* is not a local storage device. The card accepting machine described by *Dethloff* is not a device for locally controlling access to an account. That is, the card accepting machine described by *Dethloff* is not a part of the *Dethloff* M-card device. For these reasons, the *Harada-Nakano-Dethloff* combination would still require sending a communication over the communications link to the remotely located “server/processor 1” of *Nakano* (or the “card accepting machine” of *Dethloff*) before a test of the sub-credit limit could be made.

The Appellant respectfully submits that neither the *Nakano* reference nor the *Dethloff* reference nor the *Harada* reference teaches or suggests all of the claim limitations of Claim 5. The present invention comprises a local account authorization device in a consumer electronics device typically found in the home. In the present invention, the user sets up an account with sub-credit limits in a local consumer electronics device such as a set top box. The credit card information is not sent out on the network until after the bioauthentication information has been locally matched and the sub-credit limit has been locally determined. This element is not disclosed or suggested in the prior art.

For these reasons, the Examiner has not established a *prima facie* case of obviousness against Claim 5 (and its dependent claims). The Appellant notes that Claims 6-11 depend directly or indirectly from Claim 5. As previously described, Claim 5 contains unique and novel claim limitations of the Appellant's invention. Therefore, Claims 6-11 also contain the same unique and novel claim limitations of Claim 5 and are therefore patentable over the *Nakano* reference and the *Dethloff* reference and the *Harada* reference, either separately or in combination.

The Appellant notes that Claim 13 and Claim 14 contain elements that are analogous to the unique and novel elements of Claim 5 that have been previously discussed. The Appellant further notes that Claims 15-16 depend directly or indirectly from Claim 14. Therefore, Claims 15-16 also contain the same unique and novel claim limitations of Claim 14 and are therefore patentable over the *Nakano* reference and the *Dethloff* reference and the *Harada* reference, either separately or in combination.

The Examiner stated that "The reasons for combining the references appear to be specific and therefore fulfill determining a *prima facie* case for obviousness." (Examiner's Answer, Page 7, Lines 2-3). For the reasons set forth above, the Appellant respectfully submits that the Examiner's reasons for combining the references are not specific and that the Examiner has not determined a *prima facie* case for obviousness for Claims 5-11 and Claims 13-16.

The Appellant therefore respectfully submits that Claims 5-11 and Claims 13-16 are in condition for allowance. Allowance of Claims 5-11 and Claims 13-16 is respectfully requested.

In this Reply Brief the Appellant makes no admission concerning any now moot rejection or objection, and affirmatively denies any position, statement or averment of the Examiner that was not specifically addressed herein.

CONCLUSION

The Appellant has demonstrated that the present invention as claimed is clearly distinguishable over the prior art cited of record. Therefore, the Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

The Commissioner is hereby authorized to charge any additional fees (including any additional extension of time fees) or credit any overpayments to Munck Butrus Deposit Account No. 50-0208.

Respectfully submitted,

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